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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**SECOND APPEAL NO. 550 OF 2006**

Mr. Sharadchandra Govind Joshi ... Appellant

V/s

1. Sou. Nilima Bhalchandra Bhide & ors. ... Respondents

Mr. Prabhu for Mr. N.V. Bandiwadekar for the appellant.

Mr. Amit Borkar for the respondent No.1.

**CORAM: SMT. NISHITA MHATRE, J.**

**DATED: 12TH JULY, 2007.**

**P.C.**:

1. This second appeal has been filed by the defendants contending that, firstly an amendment sought by them to their pleadings was not permitted by the appellate Court and secondly that the suit property was a coparcenary property and, therefore, the plaintiffs' interest in the property was only to the extent of their shares in the property.

2. The amendment sought was to bring on record a document which the appellants had found after the appeal was filed by them which indicates that the suit property was purchased in the joint names of defendant No.2 and

defendant No.3 when they were minors. It is contended on this basis that the plaintiffs could not have a share in the property. It is submitted that the amendment ought to have been allowed.

3. In my view, this submission cannot be accepted. No error has been apparent on the face of the record. The amendment sought was contrary to the pleadings in the written statement where the defendants had stated that the suit property was ancestral property. The appellate Court has rightly held that the appellants had treated the property as joint family property and, therefore, rightly rejected the amendment. The submission of the learned advocate for the appellants that the share allotted to the plaintiff is improper also cannot be accepted since the suit property has been held to be that of the father of the plaintiff and the defendants. The plaintiffs would get an equal share in the property. After the death of the mother of the plaintiffs, her share was again divided between all her heirs and the share of the plaintiff increased to 1/8. There is no error apparent on the face of the record nor does any substantial question of law arise in this appeal.

4. Appeal dismissed.

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